

Webb, Patricia J. (Phila)

From: Mizrachi, Sabrina (Phila)
Sent: Monday, April 14, 2008 4:54 PM
To: 'Roach, Kathleen L.'; Scott B. Fleming; Westerfield, Evan B.; MHermes@mtthlaw.com
Cc: Ehrich, Delmar R.; Mandelbaum, David (Phila); Rockwood, Linda L.; Deihl, Colin C.; Davies, Marc E. (Phila); Schlickman, J. Andrew
Subject: RE: Judge's Order

Kathy --

We understand your position, however, the Court's April 10 Order does not mention the Rule 26(f) conference, which occurred on April 1. The Court's Order vacates the requirement to file a joint report on April 14, and cancels the initial case management conference set for April 23, with no reference to the requirement to hold the Rule 26(f) conference. The Rules clearly state that it is the 26(f) conference that triggers the deadline for exchange of initial disclosures, as set out below.

We understand your preference to wait for the Court to set the dates, and you understand our preference against delaying discovery, and to move towards a resolution of the matters you have brought before this Court on behalf of your client and against ours. Accordingly, although the deadline is tomorrow, we suggested a stipulation for disclosures to be exchanged, and we do not think it is necessary or required to wait for the Court to set a schedule. Our suggestion is May 2, please let us know if you are willing to make this agreement, or if you would like to suggest an alternative for handling the stipulation we propose on tomorrow's deadline.

Thank you,
Sabrina

From: Roach, Kathleen L. [mailto:kroach@Sidley.com]
Sent: Monday, April 14, 2008 11:58 AM
To: Mizrachi, Sabrina (Phila); Scott B. Fleming; Westerfield, Evan B.; MHermes@mtthlaw.com
Cc: Ehrich, Delmar R.; Mandelbaum, David (Phila); Rockwood, Linda L.; Deihl, Colin C.; Davies, Marc E. (Phila); Schlickman, J. Andrew
Subject: RE: Judge's Order

Sabrina-

We are surprised to hear of your position that initial disclosures are due tomorrow, and do not believe it to be consistent with the order entered by the Court vacating the previously scheduled dates and holding further scheduling in abeyance. We believe that the setting of a deadline for initial disclosures under Rule 26(a) should await a scheduling order or conference with the Court. Please let us know whether you will agree not to proceed with initial disclosures until the Court sets a schedule.

Kathy

From: Mizrachi, Sabrina (Phila) [mailto:MizrachiS@ballardspahr.com]
Sent: Friday, April 11, 2008 11:42 AM
To: Roach, Kathleen L.; Scott B. Fleming; Westerfield, Evan B.; MHermes@mtthlaw.com
Cc: Ehrich, Delmar R.; Mandelbaum, David (Phila); Rockwood, Linda L.; Deihl, Colin C.; Davies, Marc E. (Phila)
Subject: Judge's Order

Kathy --

We received the Judge's Order, dated yesterday, April 10, 2008, and read it to cancel the submission of the Joint Report on April 14, and the conference scheduled before the Court on April 23, 2008, until all parties have been joined to the lawsuit, or upon other request by the parties. Since we have already had a Rule 26(f) conference on April 1, it is Glatfelter's position that the Rule 26(a) initial disclosures are still due within 14 days of the Rule 26(f) conference, that is, April 15, 2008, unless a different time is set by stipulation court order. F.R.Civ.P. 26(a)(1). While we are aware of NCR's preference, as stated during the April 1 Rule 26(f) conference, to extend the deadline for exchange of the initial disclosures to June 1, 2008, we suggest that the parties enter into a stipulation extending the April 15 deadline to May 2 for exchange of the initial disclosures. Since the deadline currently remains April 15, which is only four days away, please let us know your position as soon as possible. We have consulted with counsel for Menasha, and they have agreed to enter into the above-referenced stipulation.

Thank you,
Sabrina

Sabrina Mizrachi

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Sidley Austin LLP mail server made the following annotations on 04/14/08, 10:54:03:

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